

Figure 12. Pier 53/55 Sediment Cap

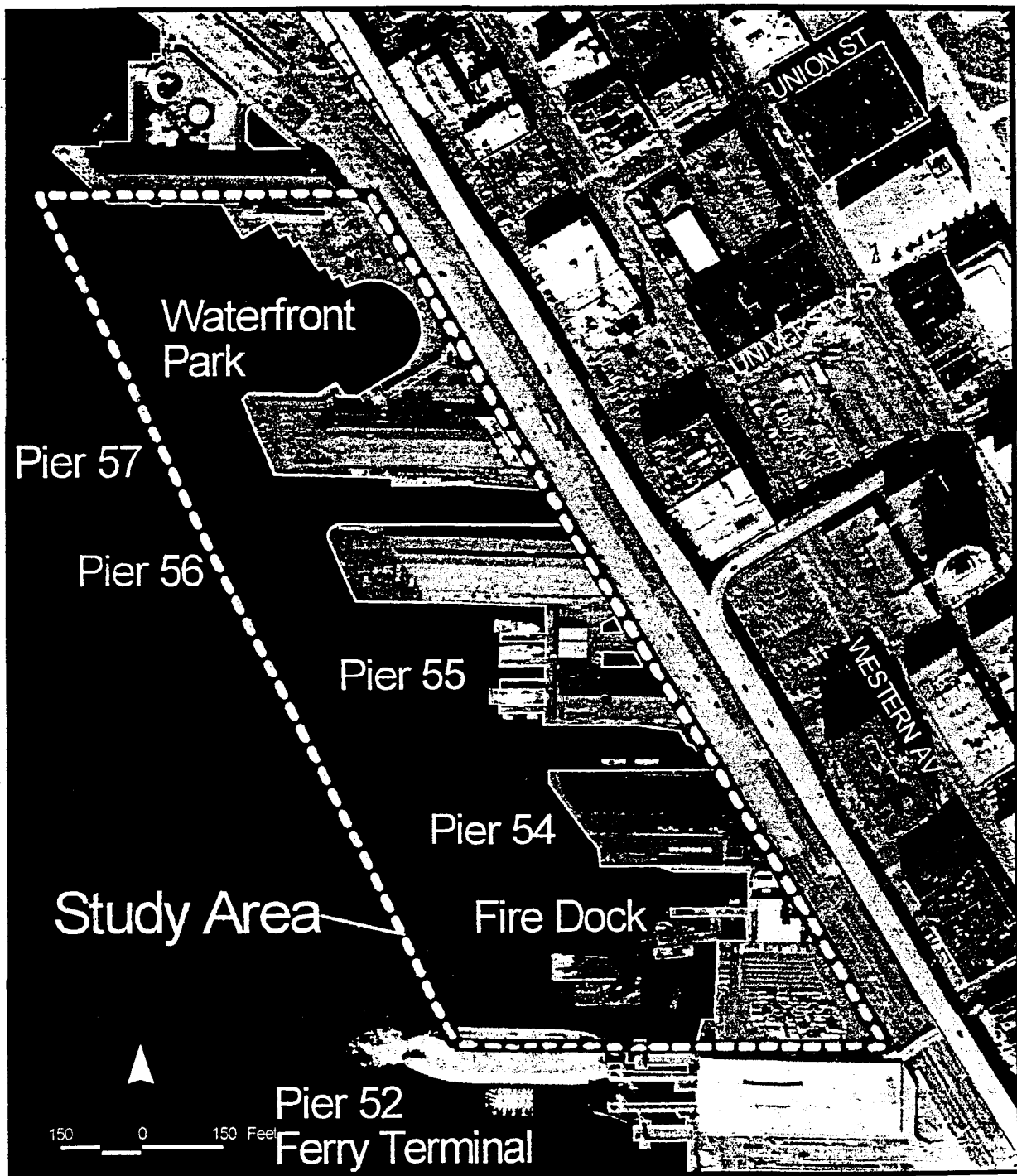


Figure 13. Central Waterfront Cleanup

Source Control 2000 Summary

**Project Manager: Martha Burke, City of Seattle Public Utilities
Telephone: (206) 684-7686**

The Consent Decree establishing the Elliott Bay/Duwamish Restoration Program provides for the development of Source Control Goals to protect natural resources and prevent recontamination of sites selected for sediment remediation and habitat development in the covered area.

In accordance with the settlement agreement, King County Department of Natural Resources and the City of Seattle, through Seattle Public Utilities (SPU), are charged with determining what changes and new activities, if any, are needed in addition to their ongoing source control programs to protect natural resources and prevent recontamination of Panel projects. The two agencies are then responsible for presenting recommendations for changes and actions to the Sediment Remediation Technical Working Group and the Panel for review and comment, and taking actions approved by the Panel.

2000 Activities

Norfolk CSO

Sampling activities continued at the Norfolk sediment remediation project site as part of the post-construction monitoring. Results indicate that no significant recontamination, particularly by bis(2-ethylhexyl) phthalate, is occurring.

Duwamish Pump Station/Diagonal CSO/SD

Based on the results of previous evaluations of recontamination potential and discussions at various Panel and Sediment Remediation Technical Working Group meetings, progress continues to complete the Site Assessment Report.

Seattle Public Utilities continued source identification, business inspections, and enforcement work in the drainage area feeding the Diagonal storm drain. These actions complement business inspections that began in 1997. During 2000, the City was able to identify two sources that were contributing pollutants to the outfall. A berm was installed to intercept and collect oils and grease exiting the outfall in addition to cleaning of the storm drains.

Elliott Bay/Duwamish Restoration Panel 2000 Resolutions

Contained in the following pages are the nine Elliott Bay/Duwamish Restoration Program Resolutions for 2000. The attachments have not been included here for the sake of brevity. The attachments, which are contained in the Administrative Record for the Program, may be reviewed at the offices of the Administrative Director upon request.

Panel Resolution 2000-01

Reconciliation of accounting authorizing In-kind services credits (\$1,769,751.00) to King County for certain *Sediment Remediation and Habitat Development* projects during 1998 and January - October 1999.

Adopted: 06 April 2000

Consent Decree: ¶ 10 (b), planning and design support
¶ 12 expenditure tracking
¶ 13 in-kind services
¶ 34 source control

References: Attachment 1. King County Memorandum dated February 8, 2000
In-kind Service Work, 1998 - October 1999.

1997-08	Norfolk Sediment Remediation Project
1997-13	Elliott Bay Nearshore Enhancement Project
1997-14	Transition Management Plan
1998-08	Pier 53/55 Sampling
1999-01	Reconciliation of Accounting for King County 1991-1997
1999-02	Reconciliation of Accounting for City of Seattle 1991-1997
1999-03	Final Reconciliation of Accounting for Consent Decree Amendment

The purpose of this Resolution is to approve in-kind services credits for work performed by King County on sediment remediation and habitat development projects for the Elliott Bay/Duwamish Restoration Program during 1998 and January - October, 1999.

Granting of credit is based on the Panel's review and approval of the documentation provided by King County (Attachment 1). This information will be used to update the accounting of King County in-kind services credits, Source Control, Real Property, and cash payments as required by the Consent Decree.

The documentation provided by King County requesting in-kind services credit for the period January 1, 1998 through October 31, 1999 can be summarized as follows:

Project	Planning and Design	Implementation
Norfolk CSO (Sediment Remediation)	7,767.00	1,678,706.00
Duwamish/Diagonal CSO (Sediment Remediation)	37,923.00	0
Pier 53./55 (Sediment Remediation)	0	2,338.00
Elliott Bay Nearshore (Habitat Development)	8,579.00	34,438.00
Total	\$ 54,269.00	\$ 1,715,482.00

Combining this information with that provided in Resolution 1999-01, the total King County In-kind services credits authorized by the EB/DRP Panel of Managers to date is as follows:

Supporting Documentation	Panel Function	Planning and Design	Implementation	Source Control	Real Property
Resolution 1999-01 Resolution	63,073.00	1,309,982.00	409,863.00	12,994.00	0
Resolution 2000-01	0	54,269.00	1,715,482.00	0	0
Total	63,073.00	1,364,251.00	2,125,345.00	12,994.00	0

Elliott Bay/Duwamish Restoration Program Panel Resolution 2000-02

Adopted: 06 April, 2000

Consent Decree: ¶ 10(a) Trustee Reimbursements

In accordance with Consent Decree paragraph 10(a), the Elliott Bay/Duwamish Restoration Program Panel has received and reviewed Trustee cost documentation for the period January - December, 1999. The Panel authorizes disbursement from the Registry of the Court to the payees listed below for those costs. Supporting invoices and memoranda are included in the Administrative Record.

<u>Payees</u>	<u>Amount of Disbursement</u>
Washington State Department of Ecology Post Office Box 5128 Lacey, Washington 98509-5128 Attention: Cashiering Section Account Number: 001T000019-AA	\$ 5,358.73
Muckleshoot Indian Tribe 39015 172nd Avenue S.E. Auburn, Washington 98092-9763 Attention: Gerald Henke, Comptroller	\$ 1,086.78
The Suquamish Tribe P.O. Box 498 Suquamish, Washington 98392 Attention: Randy Hatch	\$28,716.15
National Oceanic and Atmospheric Administration NOAA Finance Services Division SSMC4, Room 9331 1305 East-West Highway Silver Spring, MD 20910-3281 Attention: Kathy Salter, DARRF Manager	\$ 8,063.86
U.S. Department of the Interior NBC/Division of Financial Management Services Branch of Accounting Operations, Mail Stop 1313 1849 C. St. NW Washington, D.C. 20240	\$11,113.00

**Elliott Bay/Duwamish Restoration Program
Panel Resolution 2000-03**

Adopted: 06 April, 2000

Consent Decree: ¶ 10(a) Trustee Reimbursements

In accordance with Consent Decree paragraph 10(a), the Elliott Bay/Duwamish Restoration Program Panel hereby authorizes disbursement from the Registry Account to the payee specified below for the purpose of reimbursement for calendar year 1999 Administrative Director costs. Supporting invoices and memoranda are attached.

<u>Payee</u>	<u>Amount of disbursement</u>
National Oceanic and Atmospheric Administration NOAA Finance Services Division SSMC4, Room 9331 1305 East-West Highway Silver Spring, MD 20910-3281 Attention: Kathy Salter, DARRF Manager	\$32,446.30

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The Panel of Managers has reviewed the trustee reimbursement request and associated documentation submitted and requests that this documentation be filed in the Administrative Record.
2. The Panel herein approves the reimbursement request in the amount listed.
3. The U.S. Department of Justice is requested to apply to the U.S. District Court for an order directing disbursement from the Registry account in connection with United States, et al. v. City of Seattle and Metro (King County), Civ. NO. C90-395WD (W.D. Wash., Dec 23, 1991), in the particulars specified above.

Elliott Bay/Duwamish Restoration Program Panel Resolution 2000-04

Authorizes planning and design expenditures (up to \$39,300.00) by King County to increase the dollar amount and tasks of the existing Ecochem contract to allow for an expanded area of focus in the Duwamish/Diagonal Alternatives Evaluation Report.

Adopted: 06 April 2000

Consent Decree: ¶ 10 (b), planning and design support

References: 1993-11B Designating Manager of Sediment Remediation Projects
1993-20 Site Selection, Development of Cleanup Study Workplans
1995-20 Attachment 1, Scope of Work, Environmental Services
for Diagonal/Duwamish and Norfolk Sediment
Remediation Projects

The Elliott Bay/Duwamish Restoration Program Panel hereby authorizes King County to expend up to \$39,300.00 of planning and design funds to increase the dollar amount and tasks for consultant services beyond the up to \$445,200.00 previously authorized by Resolution 1995-20. This increase is needed to allow the contractor to expand the area of focus for the Duwamish/Diagonal Alternatives Evaluation Report from the original size of about 5 acres, in increments, to a new and larger area of about 23 acres.

The Alternatives Evaluation Report will provide an analysis of potential cleanup alternatives and provide cost estimates for these alternatives. This information will be used by the EB/DRP Panel to recommend a preferred cleanup option for the Duwamish CSO Outfall and Diagonal Way CSO/SD Outfall (Duwamish/Diagonal) Sediment Remediation Project.

Work plans, contractor deliverables, and final cost invoices shall be submitted to the Panel for review and approval prior to a request for reimbursement from the Registry of the Court.

Elliott Bay/Duwamish Restoration Program Panel Resolution 2000-05

Reconciliation of accounting authorizing credit (\$1,643,191.77) to King County for making permanently available real property for habitat development projects.

Adopted: 17 August 2000

Consent Decree: ¶ 27 Habitat Development and Real Estate Acquisition
¶ 30 Permanently available real property contribution (up to \$2.5M)

References: Attachment 1. King County memorandum dated May 2, 2000
requesting credit for acquisition of property.

- 1996-28 Agreement to participate in King County's habitat development project at the City Light Site (up to \$700,000).
- 1996-29 Authorizes property acquisition negotiations; up to \$25,000 (of the up to \$700,000) for activities associated with project management, appraisals, and property acquisition negotiations for the City Light Site.
- 1997-18 Authorizes property acquisition credit (up to \$700,000) for Porter Levee, Burns Confluence, and Black River Confluence sites, including up to \$87,000 for activities associated with making real property available.
- 1997-19 Authorizes property acquisition credit (not to exceed \$479,200) for the Turning Basin Vicinity Project [Kenco Marine].
- 1998-01 Confirms authorization of property acquisition credit (not to exceed \$725,000 [Resolutions 1996-28 and 1996-29]) for the Duwamish/Hamm Creek Estuary Project, upon granting of an easement in perpetuity.
- 1998-09 Authorizes additional credit (up to \$25,000) for Duwamish/Hamm Creek Estuary Project management, appraisals, and acquisition negotiations.
- 1999-06 Authorizes additional real estate credit (up to \$20,000) for costs associated with acquiring a conservation easement for the Duwamish/Hamm Creek Estuary Project.

The purpose of this Resolution is to grant King County credit toward its respective maximum obligation under the Consent Decree for making permanently available real property with a value of up to \$2,500,00.00 for use as sites for habitat development projects selected by the Panel.

Granting of credit is based on the Panel's review and approval of the documentation provided by King County (Attachment 1). This information will be used to update the accounting of King County in-kind services credits, Source Control, Real Property, and cash payments as required by the Consent Decree.

Combining this information with that provided in Resolutions 1999-01 (Reconciliation of Accounting: King County 1991-1997) and 2000-01 (Reconciliation of Accounting: King County 1998 - October 1999), the total credit granted to King County by the EB/DRP Panel of Managers to date for panel function support, sediment remediation and habitat development projects, source control and real property is as follows:

Supporting Documentation	Panel Function	Planning and Design	Implementation	Source Control	Real Property
Resolution 1999-01	63,073.00	1,309,982.00	409,863.00	12,994.00	0
Resolution 2000-01	0	54,269.00	1,715,482.00	0	0
Resolution 2000-05	0	0	0	0	1,643,191.77
Total	63,073.00	1,364,251.00	2,125,345.00	12,994.00	1,643,191.77

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The Panel of Managers has reviewed the credit request and associated documentation submitted to it by King County and requests that this documentation be filed in the Administrative Record.
2. The Panel herein approves the real estate acquisition credit request from King County in the amount of \$1,643,191.77 (Attachment 1).
3. The total credited amount for all categories (as listed above) granted to King County by the Panel is \$5,208,854.77

Elliott Bay/Duwamish Restoration Program Panel Resolution 2000-06

Approves the Muckleshoot Indian Tribe's reimbursement request (\$62,617.62) for certain Turning Basin No. 3 project planning and design expenses for the period 01 January 1998 through 30 April 2000.

Adopted: 06 July 2000

Consent Decree: ¶ 9 (c),(h) planning and study activities
¶ 10 (b) planning and design support
¶ 12 expenditure tracking
¶ 27 (b) habitat development

References: Attachment 1. Muckleshoot Indian Tribe memorandum dated
2 May, 2000.

1997-14 Transition Management Plan: Scope/Schedule/Budget
1998-11 Planning & design and construction expenditures
authorization (\$114,093)

The purpose of this Resolution is to approve the Muckleshoot Indian Tribe's request for reimbursement for the monies expended to date for the planning/design and development of the Turning Basin No. 3 Aquatic Habitat Restoration Project for the period 01 January 1998 through 30 April 2000.

Reimbursement is based on the Panel's review and approval of the documentation provided by the Muckleshoot Indian Tribe (Attachment 1). This information will be used to update the accounting of the Habitat Development Projects as required by the Consent Decree.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The Panel of Managers has reviewed the reimbursement request submitted to it by the Muckleshoot Indian Tribe and requests that this documentation be filed in the Administrative Record.
2. The Panel herein approves the request from the Muckleshoot Indian Tribe in the amount of \$62,617.62 (Attachment 1).

3. The U.S. Department of Justice is requested to apply to the U.S. District Court for an order directing disbursement from the Registry account in connection with United States, et al. v. City of Seattle and Metro (King County), Civ. No. C90-395WD (W.D. Wash., Dec 23, 1991), in the following particulars:

Amount:	\$62,617.62
Payee:	Muckleshoot Indian Tribe
Attn:	Gerald Henke
Check Notation:	<u>United States, et al. v. City of Seattle and Metro (King County),</u> Civ. No. C90-395WD
Address:	Muckleshoot Indian Tribe 39015 172nd Avenue S.E. Auburn, WA. 98092-9763

Elliott Bay/Duwamish Restoration Program Panel Resolution 2000-07

Authorizes an additional planning and design expenditure of \$16,700.00 by King County to add Task 302 to the existing EcoChem contract and complete the Duwamish/Diagonal Alternatives Evaluation Report.

Adopted: 06 July 2000

Consent Decree: ¶ 10 (b), planning and design support

References:	1993-11b	Designating Manager of Sediment Remediation Projects.
	1993-20	Site Selection, Development of Cleanup Study Workplans.
	1995-20	Attachment 1, Scope of Work, Environmental Services for Duwamish/Diagonal and Norfolk Sediment Remediation Projects.
	2000-04	Increase dollar amount/tasks to 1995-20 for an expanded area of focus in the Alternatives Analysis Report.

The Elliott Bay/Duwamish Restoration Program Panel hereby authorizes the expenditure of up to \$16,700.00 of planning and design funds by King County for consultant services to add Task 302 (Develop Intermediate Remedial Actions for AE Scoping) to the scope of work for completing the Duwamish/Diagonal Alternatives Evaluation Report (D/D AE Report). This expenditure is necessary to provide the Panel a preliminary decision point regarding potential cleanup costs for not just one area of interest (5 acres), but for a total of six areas of interest (about 22 acres total). The Panel will use this preliminary information to decide how many areas of interest they want carried forward through the complete formal AE Report process.

Task 302 complements the scope of work and budget specified in Resolution 2000-04 for resuming work on and completing the D/D AE Report that will provide an analysis of potential cleanup alternatives and cost estimates for these alternatives. This information will be used by the Panel to recommend their preferred cleanup option for the Duwamish/Diagonal Sediment Remediation Project.

The combined EcoChem contract amount to finish the D/D AE Report, starting now, totals \$131,251.00, and includes the \$39,300.00 obligated by Resolution 2000-04 and \$16,700.00 in this Resolution. The additional amount of \$75,251.00 is the balance of the money that was approved for the D/D AE Report in Resolution 1995-20, which totaled \$445,200.00. The original EcoChem contract budget of \$445,200.00 included the planning and design work for both the D/D and Norfolk sediment remediation projects all the way through the AE Reports.

Work plans, contractor deliverables, and final cost invoices shall be submitted to the Panel for review and approval prior to a request for reimbursement from the Registry of the Court.

Elliott Bay/Duwamish Restoration Program Panel Resolution 2000-08

Adoption of Intertidal Habitat Projects Monitoring Program for Panel sponsored intertidal habitat projects.

Adopted: 17 August 2000

Consent Decree: ¶ 9 (h), panel authority.
¶ 10 (b), (c), planning and design - monitoring.
¶ 27 (b), habitat development - monitoring.

References: Attachment 1. Intertidal Habitat Projects Monitoring Program
(Panel Publication 23).

Attachment 2. USFWS Memorandum dated March 22, 2000.

The Elliott Bay/Duwamish Restoration Program Panel of Managers (Panel) adopts the Intertidal Habitat Projects Monitoring Program (Panel Publication 23) to define a scope, schedule, and budget for post-project monitoring of four intertidal habitat restoration projects being completed under the EB/DRP Consent Decree.

The Panel recognizes the interest of the U.S. Fish and Wildlife Service in managing this program, as expressed in their letter dated March 22, 2000.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

The Panel has reviewed the documentation submitted by the U.S. Fish and Wildlife Service and adopts the Intertidal Habitat Projects Monitoring Program as the Panel's guidance document for implementing, contingent on funding, a monitoring program for the Seaboard Lumber, Hamm Creek Estuary, Turning Basin No. 3, and North Wind's Weir projects in fulfillment of the goals embodied in the Consent Decree.

Elliott Bay/Duwamish Restoration Program Panel Resolution 2000-09

A Resolution to transfer Monitoring Program Funds from the Registry of the Court to the U.S. Department of the Interior - Natural Resource Damage and Restoration Fund.

Adopted: 31 August 2000

Consent Decree: ¶ 9 (h), panel authority
¶ 10 (b), (c), planning and design - monitoring
¶ 27 (b), habitat development - monitoring

Resolution: 2000-08 Adopting Intertidal Habitat Projects Monitoring Program (Panel Publication 23)

The EB/DRP Panel of Managers (Panel) have adopted the Intertidal Habitat Projects Monitoring Program (Panel Publication 23) to define a scope, schedule, and budget for post-project monitoring of four intertidal habitat restoration projects being completed under the EB/DRP Consent Decree.

To facilitate both sufficient oversight and efficient access to Monitoring Program funds, and to avoid burdening the Court with the administrative management and on-going requests for disbursements, the Panel seeks to transfer funds in the amount of \$721,217 from the Registry of the Court to the DOI Restoration Fund.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The EB/DRP Panel has determined to request the transfer from the Registry of the Court in the amount of \$ 721,217 into the U.S. Department of the Interior (DOI) Restoration Fund (43 USC 1474b and 1474b-1), also known as the Natural Resource Damage and Restoration (NARDAR) Fund.
2. The purpose of this transfer is the establishment of the EB/DRP Monitoring Program Account. These funds will solely support Monitoring Program implementation, administration, or oversight. The Panel has identified the U.S. Fish and Wildlife Service (USFWS) as Project Manager for this Program.

As Project Manager, USFWS is responsible for:

- a. Implementing the Monitoring Program as described in Panel Publication 23.
- b. Proper administration and oversight of funds allocated by the Panel for this Program.

- c. Regular reporting on status of Monitoring Program activities and program funds. At a minimum, reporting will consist of mid-year Program activity status reports, and end-of-year Monitoring Program Results reports. Monitoring Program activities and results reports will be completed in all years of significant Monitoring Program activity (years 1, 2, 3, 5, 7, and 10). Account status reports will be submitted twice annually in years 1 through 10.
 - d. Mid-year activity and account status reports will be due to the Administrative Director within 30 days of the end of the 2nd quarter of the year. End of year Monitoring Program Results and account status reports will be due to the Administrative Director within 60 days of the end of the calendar year.
 - e. Following the initial project year's funding request directly to the DOI Restoration Fund, for all subsequent requests for an allocation from the DOI Restoration Fund, USFWS will submit a request for concurrence to the Elliott Bay/Duwamish River Restoration Program Administrative Director. The Administrative Director shall send copies of the letter to the other Panel representatives. Within 20 business days of receipt of the request by the Elliott Bay/Duwamish River Restoration Program Administrative Director, the Administrative Director shall reply in writing via facsimile, with a concurrent mailing, to the USFWS either concurring with the disbursement or requesting a meeting of the Panel members for further discussion. Panel members may also request that the Administrative Director call a meeting of the Panel members for further discussion. For requests for disbursement within the scope, schedule, and budget as provided in Panel Publication 23, if a concurrence letter is not sent by the Administrative Director within 20 business days and received via facsimile by the USFWS on Day 20, concurrence will be assumed by USFWS. For requests for disbursement outside of the scope, schedule, and budget as provided in Panel Publication 23, a letter of concurrence is required. In the event of a dispute, a Panel meeting shall be held at which a vote will be taken to approve or disapprove the disbursement from the Fund. Disputes are limited in scope to matters of failure or untimely performance of tasks identified in Panel Publication No. 23, and inadequately explained funding requests that differ from the projected budget in Panel Publication No. 23. No more than 30 business days total will transpire between receipt of the request for concurrence and resolution of dispute. In the event that resolution of the dispute exceeds 30 business days, the FWS does not bear performance responsibility for resultant impacts on the timely implementation and conduct of the monitoring program, including, but not limited to loss of staff due to break in funding, and incomplete data collection, or loss of data due to scheduling impacts.
3. Disbursement to the DOI Restoration Fund is conditioned upon DOI's commitment that the Fund Manager will:
- a. Invest the EB/DRP Monitoring Program Funds in a manner providing a comparable level of security and earnings potential as the Registry of the Court.
 - b. Charge no fees or other charges for use of their services.

- c. Deposit all interest earned on the EB/DRP Monitoring Program Account back into the EB/DRP Monitoring Program Account.
 - d. Disburse funds only to USFWS for support of the Monitoring Program implementation, administration, or oversight according to the scope, schedule, and budget as provided in Panel Publication 23, unless a letter of concurrence is received from the Administrative Director for additional disbursements.
 - e. Terminate the USFWS Monitoring Program fund and return funds to the Registry of the Court upon presentation of a Resolution adopted by majority vote of the EB/DRP Panel.
 - f. Upon completion of the ten year monitoring program, and submission of the final Monitoring Program report, disburse any remaining funds to USFWS for expenditure on restoration project site activities within the EB/DRP program area.
 - g. Prepare mid-year and end of calendar year reports on the status and activity of the Monitoring Program Account, including payments received, disbursements made, income earned, maturity dates of securities held, and principal balance. These reports will be distributed to the Administrative Director, and subsequently forwarded to all Panel members and their counsel.
4. The Administrative Director is charged with ensuring on-going, affirmative oversight of the Monitoring Program. The Administrative Director shall:
- a. Distribute copies of the mid-year activity, account status and end-of-year reports, and disbursement requests to Panel members within 5 business days of receipt.
 - b. Within 20 business days of a disbursement request, either concur in writing via facsimile with concurrent mailing to USFWS, and a copy to the Fund Manager, or convene a special Panel meeting to resolve disputes.
 - c. Actively seek resolution of disputes of disbursement requests to facilitate uninterrupted Monitoring Program activities.
5. The EB/DRP Panel of Managers hereby requests that the U.S. Department of Justice make an application to the Court for an order directing the disbursement of funds in the amount of \$ 721,217 to:

Payee:	DOI Restoration Fund
Amount:	\$721,217.00
Address:	Dept. of the Interior NBC/Division of Financial Management Services Branch of Accounting Operations Mail Stop 1313, 1849 C Street NW Washington, DC 20240
Reference to Check:	14X5198 (DOI Restoration Fund)

2000 Cash Disbursements from the Court Registry Account

Resolution	Recipient	Amount \$	Reason
2000-02	Ecology	5,358.73	TE: 1999
2000-02	Muckleshoot	1,086.78	TE: 1999
2000-02	Suquamish	28,716.15	TE: 1999
2000-02	NOAA	8,063.86	TE: 1999
2000-02	USFWS	11,113.00	TE: 1999
2000-03	NOAA	32,446.30	AD: 1999
2000-06	Muckleshoot	62,617.62	Planning and Design Expenses.
2000-09	USFWS	721,217.00	Implement Intertidal Habitat Projects Monitoring Program
Total		\$870,619.44	

AD: Administrative Director

TE: Trustee Expense reimbursement